

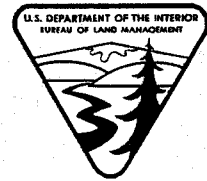


United States Department of the Interior

BUREAU OF LAND MANAGEMENT FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, UT 84631

<http://enbb.blm.interwebdesign.com>



In Reply Refer to:
03800
(U-010)
UTU-075888

May 10, 2001

CERTIFIED MAIL # 7099 3220 0002 6774 5979
RETURN RECEIPT REQUESTED

DECISION

JOE DUNLOP

RESOURCE DESIGN SOLUTIONS INC

P O BOX 1178

RIVERTON, UT 84065

43 CFR §3809

SURFACE MANAGEMENT

NONCOMPLIANCE ORDER

On March 1, 2000, you submitted, as the operator for Resource Design Solutions Inc. (RDS), a Notice to operate on your mining claim UMC 367402, under the regulations at 43 CFR § 3809.1-3. This notice was serialized as UTU-075888, and was accepted by our office on March 15, 2000.

On November 14, 2000, RDS's disturbance was calculated to be 6.60 acres, which is 1.6 acres larger than the five acre limit allowed by said notice as stated under the regulations at 43 CFR § 3809.1-3(a).

On November 22, 2000, during a meeting on site with Bureau of Land Management (BLM), and Utah Division of Oil, Gas, and Mining (UDOGM) staff, you agreed that RDS would reclaim a specified portion of the disturbance in order to keep your operation at a notice level, and that reclamation would be completed on or before December 31, 2000.

In trying to resolve this matter, BLM and UDOGM extended the date at which reclamation needed to be complete until January 10, 2001. You requested another extension which was granted, and the new deadline to reclaim the 1.6 acres was February 16, 2001.

On February 28, 2001, during another meeting on site with BLM and UDOGM, you stated that a landscape company was en route with the equipment to complete the reclamation work. Once again BLM and UDOGM extended the date to have reclamation of 1.6 acres completed. This time the date was extended until March 9, 2001.

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On March 21, 2001, BLM and UDOGM inspected the site, and it was determined that the specified reclamation was not complete, and that RDS was operating at a Plan of Operation level without an approved Plan of Operation.

BLM has afforded you every opportunity to rectify this situation under the old 3809 regulations. Since you have missed four deadlines to reclaim 1.6 acres in excess of your accepted notice, you are in noncompliance with the following sections of the new 3809 regulations:

1. **43 CFR 3809.11** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70115)
2. **43 CFR 3809.300** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70118)
3. **43 CFR 3809.401** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70120)
4. **43 CFR 3809.415** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70129)
5. **43 CFR 3809.415(a)** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70122)
6. **43 CFR 3809.420** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70122)
7. **43 CFR 3809.500** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70125)
8. **43 CFR 3809.601** (See attached copy of Federal Register/ Vol. 65, No. 225, page 70129)

To correct this situation, you must complete the following:

1. Submit a complete and technically adequate Plan of Operation that contains all required information stated in § 3809.401, (Operator Information, Description of Operations, Reclamation Plan, Monitoring Plan and Interim Management Plan and Reclamation Cost Estimate) within sixty (60) days of receipt of this **Noncompliance order**. Until the submitted plan of operations is accepted, no additional earth disturbing activities may occur at the site.
2. Submit an acceptable financial guarantee (43 CFR 3809.555) prior to work commencing on the ground.

3. Resolve the Notice of Violation with the State of Utah, Minerals Reclamation Program.

Failure to comply with the Noncompliance Order may result in appropriate civil and criminal penalties in accordance with 43 CFR 3809.700.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Utah State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Fillmore Field Office, 35 East, 500 North, Fillmore Utah, 84631) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

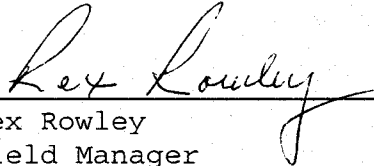
If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions regarding this noncompliance order, please call Larry Garahana at (435)743-3126.


Rex Rowley
Field Manager

Enclosures: Copy of Federal Register/ Vol. 65, No. 225 (68pgs)
Form 1842-1 (1 pg)

cc: 1) UT-923
2) D. Wayne Hedberg, UDOGM (S/023/066)
3) Joe Finnegan, 27 Lone Hollow Dr., Sandy, Utah 84092
4) Jerome and Mindy Thorne, 12340 S. Redwood Rd, Riverton, Utah 84065
5) Resource Designs Solutions, 12340 S. Redwood Rd, Riverton, Utah 84065
6) George Finnegan, 12340 S. Redwood Rd, Riverton, Utah 84065
7) Mike Hildreth, 3052 Tinamous Rd, Eagle Mountain, Utah 84043
8) Jack Finnegan, 10117 S. Canterwood Ct. , South Jordan, Utah 84095